

AGENDA



Recommendation for Council Action

Austin City Council	Item ID	16361	Agenda Number	20.
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Meeting Date:	8/23/2012	Department:	Parks and Recreation
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Subject

Approve an ordinance amending City Code Chapter 8-1 regarding restrictions on smoking and fire hazard activity on parkland during periods when a Parks Burning Restriction is in effect; and declaring an emergency.

Amount and Source of Funding

Fiscal Note

There is no unanticipated fiscal impact. A fiscal note is not required.

Purchasing Language:	
Prior Council Action:	October 20, 2011 – Council approved Ordinance No. 20111020-025.
For More Information:	Elizabeth Richard, 974-6790; April Thedford, 974-6716
Boards and Commission Action:	
MBE / WBE:	
Related Items:	

Additional Backup Information

On October 20, 2011, City Council approved Ordinance No. 20111020-025, which added an Article 7 to City Code Chapter 8-1 authorizing the City Manager and the director of the Parks and Recreation Department (PARD) to issue burn ban orders for city parks. Per current Article 7, (Restrictions on Outdoor Burning) during periods of a burn ban, a person commits an offense if the person while in a park or a Nature Preserve smokes or engages in other activity that could result in a fire.

The proposed amendment changes some terminology in Article 7 related to fire hazard activity on parkland, PARD-managed properties, and Nature Preserves to distinguish the City Manager or PARD Director’s orders from orders issued by the Fire Department and from restrictions and prohibitions that are generally applicable throughout the jurisdiction under the provisions of the adopted Fire Code. The proposed amendment also clarifies that fireworks displays conducted on parkland are allowed and do not violate Article 7 if the displays are authorized by the Fire Department and conducted in compliance with a permit issued by the Fire Department. The proposed amendment includes a provision that results in automatic suspension or denial of temporary designated smoking areas during any time when a Parks Burning Restriction is in effect.

Finally, the proposed amendment revises the minimum and maximum fine applicable to offenses of Chapter 8 for consistency with the fine range for offenses of Chapter 10-6 (Smoking in Public Places). The fine range for Chapter 8 offenses currently stands at not less than \$300.00 and not more than \$500 for each offense. This amendment would change that range to align with current code for a smoking in public places offense, which states no minimum fine but cannot exceed \$2,000, with a culpable mental state requirement waived when the fine sought for the offense is \$500.00 or less. This change is designed to avoid confusion that might arise if the activity of smoking in a park if ticketed under Chapter 8 was subject to a \$300 minimum and \$500 maximum fine, while the activity of smoking in a park if ticketed under Chapter 10 could result in a fine from \$1 up to \$2,000.

Given the continued drought conditions in Central Texas and extreme risk to parkland and public health and safety preservation associated with fire safety hazards, the proposed ordinance amending City Code Chapter 8-1, Article 7 is recommended for emergency adoption to take immediate effect.

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